

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

YOHAN A. GERMOSEN

CR NO. 05-10120-NG  
(USCA NO. 07-1272)

ORDER ON MOTIONS

GERTNER, D.J.

On April 9, 2006, this Court granted defense counsel's motion to withdraw (#41) by electronic Order. However, upon further consideration, the Court VACATES this ruling and hereby DENIES the motion to withdraw without prejudice to renew in the United States Court of Appeals for the First Circuit ("First Circuit"), pursuant to First Circuit Local Rule 46.6. That rule provides the procedure for withdrawal of counsel in criminal cases, and provides that "[a]n attorney who has represented a defendant in a criminal case in the district court will be responsible for representing the defendant on appeal, whether or not the attorney has entered an appearance in the court of appeals, until the attorney is relieved of such duty by the court of appeals."<sup>1</sup> Id. (emphasis added).

It is Further Ordered that Defendant's Motion for Appointment of Counsel on appeal (as incorporated into motion #40) is hereby DENIED without prejudice to filing a motion for

---

<sup>1</sup>First Circuit Local Rule 12(b) provides that an attorney who has entered an appearance in the court may not withdraw without the consent of the court, and an attorney who has represented a defendant in a criminal case is responsible for representing the defendant on appeal. (cross-referencing the procedures in Local Rule 46.6).

appointment of counsel with the First Circuit in accordance with First Circuit Local Rule 46.5. First Circuit Local Rule 46.5(a) provides for a defendant to request court appointed counsel, and Rule 46.5(b) provides for appointment of counsel by the Court of Appeals in criminal cases. *Id.* (emphasis added).

With respect to Defendant's Motion for Leave to Appeal *in forma pauperis* (#40), after review of Defendant's financial disclosures, this Court finds that he lacks sufficient funds to pay the \$455 filing and docketing fees of the First Circuit. Accordingly, the Motion for Leave to Appeal *in forma pauperis* (#40) is hereby ALLOWED.

SO ORDERED.

DATED:

3/4/07

  
\_\_\_\_\_  
NANCY GERTNER  
UNITED STATES DISTRICT JUDGE